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No. 95-125

In The

Supreme Court of the United States

October Term, 1995

GENERAL MOTORS CORPORATION,

Petitioner,

v.

CITY OF KANSAS CITY, MISSOURI,

Respondent.

On Petition For A Writ Of Certiorari To The Missouri Court Of Appeals, Western District

OBJECTION TO MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* FILED BY COMMITTEE ON STATE TAXATION

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The Motion for Leave to File Brief Amicus Curiae filed by the Committee on State Taxation (hereinafter "Applicant") should be overruled as it fails to bring forth any relevant matter, facts or questions of law which have not already been presented by the parties. Rather, this is merely a transparent attempt on the part of Petitioner to file two briefs in this matter as Petitioner is a member company of the Committee on State Taxation.

Supreme Court Rule 37 governs the filing of briefs amicus curiae and in relevant portion states:

> .1. An *amicus curiae* brief which brings relevant matter to the attention of the Court that has not already been brought to its attention by the parties is of considerable help to the Court. An amicus brief which does not serve this purpose simply burdens the staff and facilities of the Court and its filing is not favored.
>
> .2. A brief of an *amicus curiae* submitted prior to the consideration of a petition for a writ of certiorari . . . A motion for leave to file a brief *amicus curiae* when consent has been refused is not favored.

Applicant's Motion for Leave to File Brief *Amicus Curiae* and brief submitted in favor of Petitioner's Petition for a Writ of Certiorari fails to meet the standard set forth in Rule 37 and therefore, should be overruled.

The true purpose of Applicant's request to file brief *amicus curiae* in support of Petitioner is found on page two of the Motion which states: "Second, General Motors Corporation is but one of many member companies . . . " The purpose of this motion is not to bring relevant matter to the attention of the Court which has not already been brought to its attention by the parties. Rather, this motion is a transparent attempt by General Motors Corporation to burden the Court by filing two sets of briefs on its behalf.

Applicant raises no relevant matter which the parties have not already raised. Applicant's motion merely restates the same legal arguments which Petitioner raised in its Petition. Furthermore, Applicant misstates the law of Missouri by stating that Missouri taxpayers have been "foreclosed from obtaining refunds of unconstitutional

taxes" (App. Brief, p.4) when in fact the clear and certain remedy for seeking a refund of taxes in Missouri has been available and has been unchanged for many years. Applicant premises its argument on the conclusion that the tax asserted against Petitioner is unconstitutional; the law of the case as it currently stands does not support this premise as there is no binding court opinion finding the tax to be unconstitutional. These are the same arguments Petitioner makes in its Petiton.

Applicant brings no relevant matter to the attention of the Court that has not already been brought to its attention by the parties. Applicant's Motion should be overruled.

Respectfully submitted,

CITY OF KANSAS CITY,
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